IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 22491 of 2003

Between:

C.V.Ramana Murthy, S/o Rama Murthy
aged 45 years, Chintaluru PACS, Chintaluru,

Alamuru Mandal, East Godavari District.

..... PETITIONER

AND

1 The District Cooperative Officer, Kakinada,

East Godavari District.
2 The Divisional Cooperative Officer, Rajahmundry,

East Godavari District.
3 The Chintaluru PACS, Chintaluru, Alamuru Mandal,

East Godavari District,
rep.by its Chairman.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the 3rd respondent in suspending the petitioner from service vide proceedings dated 24-1-2003 and further action of the 2nd respondent in rejecting the appeal vide proceedings Rc.No.3209/2000-E1, dated 23-4-2003 as highly illegal, arbitrary and without jurisdiction and also violative of Arts.14 and 21 of the Constitution of India apart from contrary to the provisions of A.P.C.S.Act.

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the 3rd Respondent : MR.C.V.MOHAN REDDY.

Counsel for the 1st and 2nd RESPONDENT : GP FOR COOPERATION

The Court made the following :

O R D E R :

The petitioner questions the Order of the third respondent-Society, dt.24-01-2003, in suspending the service of the petitioner, pending enquiry, against which, the appeal filed before the second respondent was not entertained on the ground that the petitioner is entitled to file the appeal before the Committee of the third respondent-society.

I am not inclined to go into the said contention with regard to the advice given by the second respondent vide his Proceedings dt.23-04-2003 stating that the petitioner has to file an appeal before the Managing Committee.

Admittedly, the suspension order has been made by the Person-in-charge Committee. Person-in-charge Committee is exercising the powers of the Managing Committee and therefore, the question of filing the appeal before the same Person-in-charge Committee against the Orders of suspension does not arise.

I have perused the Order of suspension made by the third respondent-society, dt.24-01-2003, wherein serious allegations have been made against the petitioner stating that without following the Resolution of the Society and without permission of the President and against the Bye-laws of the Society, the petitioner had paid salaries to the employees. Therefore, a Show Cause Notice, dt.21-09-2002, was also issued to the petitioner to show cause as to why action should not be taken and the explanation submitted by the petitioner on 24-09-2002 was found to be not satisfactory, for not caring the Resolution of the Managing Committee and for distributing the money of the Society as per the whims and fancies of the petitioner. The person-in-charge Committee, *prima facie,* found that the petitioner has committed misappropriation of funds and therefore, he was suspended pending enquiry. The action of the third respondent-society in placing him under suspension is not by exercise of any statutory provisions. Admittedly, the third respondent-society has not a State within the meaning of Article 12 of the Constitution of India

and therefore, no Writ lies against the 3rd respondent-society.

The learned counsel appearing for the third respondent-society submits that the Society issued a charge memo dt.10-07-2003 and the petitioner instead of submitting his explanation went on postponing the same, on one pretext or the other, and finally by his letter dt.29-07-2003 sought for one month time to submit his explanation on the ground of alleged ill-health. The fact remains that the petitioner has not filed any explanation as on 11-03-2004.

Admittedly, the petitioner is the employee of the third respondent society and therefore, the third respondent-society is empowered to place the services of the petitioner under suspension as per its Bye-laws and Special Bye-laws. Suspension, pending enquiry, is not a punishment.

For the aforesaid reasons, I am not inclined to grant any relief in the Writ Petition and the Writ Petition is accordingly dismissed. No costs.

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10-08-2004

prv

.....ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Cooperative Officer, Kakinada,

East Godavari District.

2 The Divisional Cooperative Officer, Rajahmundry,

East Godavari District.

3 The Chairman, Chintaluru PACS, Chintaluru, Alamuru Mandal,

East Godavari District,

4 2 CCs to G.P. for Co-operation.

5 2 CD copies.